

CITY AND COUNTY OF HONOLULU
DEPARTMENT OF PLANNING AND PERMITTING
650 SOUTH KING STREET, HONOLULU, HAWAII 96813
<http://www.honoluludpp.org/>

***INSTRUCTIONS FOR PREPARING AND FILING A DECLARATION OF RESTRICTIVE COVENANTS
FOR ACCESSORY DWELLING UNITS***

Before the accessory dwelling permit can be issued, the fee owner(s) of the lot must prepare and file the declaration of restrictive covenant with the Bureau of Conveyances or the Land Court. A certified copy of the declaration showing proof of recordation must be presented to the Permit Issuance Branch before issuance of the building permit.

Preparation of the Declaration of Restrictive Covenants

Reproduce a document similar to the sample copy. Fill in blanks and omit blank spaces.

- ☐ Type or print neatly in black ink.
- ☐ All documents should be no larger than 8 ½" x 11" and should be single-sided sheets of written text.
- ☐ All documents should be able to reproduce legibly under photographic or electrostatic methods. Highlights are not acceptable for imaging.
- ☐ The first page of the document must have the following:
 - ☐ Top three and one-half inches (3 ½") must be reserved for Registrar's recording information.
 - ☐ The following one inch (1") must be reserved for information showing to whom the recorded document should be returned with the complete mailing address.
 - ☐ The mailing address to whom the document should be returned must begin one and one-half inches (1 ½") from left the margin and not exceed three and one-half inches (3 ½") per line.
 - ☐ Must identify the full names of all fee owners, addresses and tax map key number. If the property is owned by a trust, the trustee must be identified and affiliation to the trust must be explained.
 - ☐ Must identify the specific zoning designation for the property (Country, R-3.5, R-5, R-7.5, R-10 or R-20) as well as the lot area.
- ☐ The names of parties must conform throughout the document (body of instrument, below signature line and notary page).
- ☐ Signatures must be notarized.
- ☐ Attach and label "Exhibit A." "Exhibit A" is the description of the property which is usually attached to the deed or other conveyances document.

Most of the above information was obtained from the State Bureau of Conveyances. Please access their website at <http://dlnr.hawaii.gov/boc/recording-fees/>

Review and Recordation

The declaration must be reviewed and approved by the assigned residential plans examiner. Therefore:

- ☐ Submit an unsigned (not notarized) and not recorded declaration of restrictive covenant (prepared per instructions above) to the assigned residential plans examiner at the Permit Issuance Branch.
- ☐ The plans examiner will review the information in the declaration and inform you if corrections or addition are needed.
- ☐ Once the declaration has been approved by the plans examiner, take it to the Bureau of Conveyances or Land Court for recordation at ***Kalanimoku Building, 1151 Punchbowl Street, Room 120.***
- ☐ After the recordation, submit a certified copy of the recorded declaration to the assigned residential plans examiner.

ATTENTION: It is the sole responsibility of the fee owner(s) to properly fill-in the declaration of restrictive covenant and file it with the Bureau of Conveyances. When you submit the filled-in and unsigned declaration of restrictive covenant to the Permit Issuance Branch (prior to being recorded) the plans examiner will only review it for content relating to building permit.

<div style="text-align: center; margin-bottom: 10px;">Margin</div> <div style="border-bottom: 1px solid black; padding-bottom: 5px;"> LAND COURT SYSTEM Return by Mail () </div>	<div style="border-top: 1px dashed black; height: 100px; margin: 0 auto; width: 2px;"></div>	<div style="text-align: center; margin-bottom: 10px;">Minimum 3^{1/2}"</div> <div style="border-bottom: 1px solid black; padding-bottom: 5px;"> REGULAR SYSTEM Pickup () </div> <div style="text-align: center; margin-top: 10px;"> ↑ Minimum 1" ↓ </div>
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→Minimum 1^{1/2}"← To:

DECLARATION OF RESTRICTIVE COVENANTS

This Declaration made by _____, Owner(s) in fee simple of that certain parcel of land at _____ also known as Lot _____ of _____, identified by Tax Map Key _____, and more particularly described in Exhibit "A" attached hereto and made a part thereof (the "Property").

WHEREAS, by Deed dated _____, recorded in the Bureau of Conveyances (Regular System) of the State of Hawaii in Liber # _____, Page _____, or in Document/Instrument No. _____, and/or filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. _____ and noted on Certificate of Title No. _____, [name of owner(s)] became the sole owner(s) of the Property and is/are hereinafter collectively called the "Declarant."

WHEREAS, the Declarant has applied for a building permit from the Department of Planning and Permitting of the City and County of Honolulu, Building Permit Application No. _____ ("Building Permit Application"), for the construction, and/or maintenance of an accessory dwelling unit on the Property.

WHEREAS, pursuant to the Land Use Ordinance of the City and County of Honolulu, in a _____ District on a zoning lot of _____ square feet, a one-family detached dwelling may only be erected and maintained on said premises, except under the provisions of the Land Use Ordinance relating to Accessory Dwelling Units.

NOW, THEREFORE, in accordance with the provisions and definitions in the Land Use Ordinance pertaining to Accessory Dwelling Units, the Declarant hereby covenants and agrees to subject the Property described in Exhibit "A" to the following restrictive covenants:

1. Neither the owner or owners, nor their heirs, successors or assigns of the owner or owners will submit the lot or any portion thereof to a condominium property regime under the provisions of HRS Chapter 514A to separate the ownership of an accessory dwelling unit from the ownership of its primary dwelling unit.
2. The property owner or owners or persons who are related by blood, marriage, or adoption to the property owner or owners, or designated authorized representative(s) shall occupy the primary dwelling unit or the accessory dwelling unit so long as the other unit is being rented or otherwise occupied; except in cases of unforeseen hardship circumstances (e.g., active military deployment, serious illness) that prevent the continued occupancy of the primary dwelling unit or the accessory dwelling unit, subject to confirmation by the director. For purposes of this section, "designated authorized representative(s)" means the person or persons designated by the property owner or owners to the department of planning and permitting, who are responsible for managing the property.
3. The accessory dwelling unit may only be used for long-term rental or otherwise occupied for periods of at least six months, and cannot be used as a bed and breakfast home or transient vacation unit.
4. If the property owner or owners, or persons who are related by blood, marriage or adoption to the property owner or owners, or designated authorized representative(s) choose to receive rent for the primary dwelling unit and occupy the accessory dwelling unit, the primary dwelling unit may only be used for long-term rental or otherwise occupied for a minimum period of six months, and cannot be used as a bed and breakfast home or transient vacation unit.
5. The accessory dwelling unit is limited to the approved size in accordance with the provisions of Chapter 21.
6. The deed restrictions lapse upon removal of the accessory dwelling unit, and all of the foregoing covenants are binding upon any and all heirs, successors and assigns of the owner or owners.
7. This Declaration of Restrictive Covenants shall run with the land and shall bind, inure to the benefit of, and constitute notice to the respective successors, grantees, assignees, mortgagees, lienors, and any other person who claims an interest in the Property.
8. Declarant shall file a certified recorded copy of this Declaration of Restrictive Covenants with the Department of Planning and Permitting of the City and County of Honolulu, as a condition precedent to the issuance of the Building Permit.

9. This Declaration of Restrictive Covenants shall not terminate, extinguish nor cancel without the express approval of the Director of Planning and Permitting of the City and County of Honolulu, State of Hawaii.
10. The failure to maintain the development in accordance with this Declaration of Restrictive Covenants shall constitute grounds for the City and County of Honolulu to revoke or suspend any building permits issued hereunder.
11. The City and County of Honolulu, State of Hawaii, shall have the right to enforce this Declaration of Restrictive Covenants and the conditions contained herein by appropriate action at law or suit in equity against Declarant and any persons claiming an interest in the Property.

IN WITNESS WHEREOF, the undersigned hereunto sets his/her hand on this _____ day of _____, 20____.

NAME OF OWNER

NAME OF OWNER

On this _____ day of _____, 20____, before me personally appeared _____ known to me to be the _____ Declarant hereunder, described in and who executed the foregoing instrument, and acknowledge that he executed the same as his free act and deed and as the act and deed of Declarant.

My commission expires:

Date of Doc:

Pages:

Name of Notary:

Notes:

Doc. Description:

Notary Signature

Date

First Circuit, State of Hawaii

(stamp or seal)

NOTARY CERTIFICATION